

REMARKS

Claims 59-108 were previously pending in this application. Claims 59-61, 65, 73, 74, 84, 85, 94, 95, 99 and 107 have been amended. Claims 71, 77, 83, 88, 101, 105, and 108 were withdrawn by the Examiner as drawn to non-elected species. As a result claims 59-70, 72-76, 78-82, 84-87, 89-100, 102-104, 106, and 107 are pending for examination with claims 59 and 84 being independent claims. Applicants request that the withdrawn claims be considered upon allowance of one or more generic claims.

Support for the claim amendments can be found in the application as filed. For example, support for the amendments to independent claim 59 can be found in original claim 59, and in the specification at least at page 5, lines 7-12, line 25 on page 8 through line 2 on page 9, and line 3 on page 41 through line 3 on page 42. Similarly, support for the amendments to independent claim 84 can be found in original claim 84, and in the specification at least at page 5, lines 7-12, line 25 on page 8 through line 2 on page 9, and line 3 on page 41 through line 3 on page 42. For example, the specification from line 26 on page 8 through line 2 on page 9 explains that enhanced expression of a polypeptide can be obtained, because “the removal of CpG-S motifs and addition of CpG-N motifs, allows longer lasting therapeutic effects by abrogating immune responses against the expressed protein.” The dependent claims have been amended to clarify antecedent basis in view of amendments to the independent claims. The term “therapeutic polypeptide” in claims 59, 73, 74, 84, 85, and 107 has been replaced with the term “polypeptide,” thereby removing the therapeutic limitation and clarifying that the methods are generally applicable to expressed polypeptides, including therapeutic polypeptides such as those recited in claims 73 and 107. No new matter has been added.

Rejections Under 35 U.S.C. §112, first paragraph

The Examiner rejected claims 59-108 under 35 U.S.C. §112, first paragraph, as described on pages 2-9 of the Office Action. Without acquiescing to these rejections, and with the intention of expediting prosecution of the instant application, Applicants have amended independent claims 59 and 84 to reflect the subject matter that the Examiner

acknowledged as being enabled on page 2 of the Office Action and during the telephonic interview of September 12, 2003.

Accordingly, withdrawal of all of the rejections under 35 U.S.C. §112, first paragraph, is respectfully requested.

Objections Under 37 C.F.R. §1.75(c)

The Examiner objected to claims 62 and 96 under 37 C.F.R. §1.75(c) as allegedly failing to further limit the subject matter of a previous claim. Specifically, the Examiner objected to the term “expression vector.” As discussed during the telephonic interview with the Examiner on September 12, 2003, the term “expression vector” is defined on page 14 (lines 4-8) of the specification. As defined, an “expression vector” has “been manipulated by insertion or incorporation of genetic coding sequences.” Therefore, Applicants submit that the recitation of an “expression vector” in claims 62 and 96 further limits the “nucleic acid construct” of a previous claim.

Accordingly, withdrawal of this objection is respectfully requested.

Allowable Subject Matter

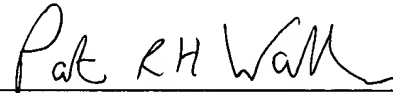
As discussed during the telephonic interview of September 12, 2003, Applicants have amended independent claims 59 and 84 to include features that were acknowledged by the Examiner to be enabled.

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call Applicants' attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
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